IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2782 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL RAVJIBHAI VALJIBHAI & 51 - Petitioner(s)

Versus

PATEL SAVAJIBHAI RAVAJIBHAI & 6 - Respondent(s)

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Appearance :

MR PJ VYAS for Petitioner(s) : 1,
MR SK PATEL for Respondent(s) : 1 - 2.
MR AD OZA for Respondent(s) : 3,
RULE SERVED for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/02/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Sub-Divisional Magistrate, Modasa dated 27.11.1997

passed under Section 23(A) of the Bombay Rent Act by which in an application submitted by the respondent Nos.1 and 2, the Sub-Divisional Magistrate, Modasa allowed the said application and granted the permission in favour of the respondent Nos.1 and 2 to get the electricity connection independently and irrespective of the objections by the respondent No.2.

2. Shri P.J.Vyas, learned advocate appearing on behalf of the petitioner has submitted that as such the order passed by the Sub-Divisional Magistrate, Modasa, passed under Section 23(A) of the Act is without jurisdiction, more particularly, the civil litigation is pending between the parties and that even the respondent Nos.1 and 2 failed to get any interim relief in their favour for getting the electricity connection. While issuing notice in the present Special Civil Application, this Court did not grant any interim relief. On 28.4.2000, the learned Single Judge of this Court heard the matter and recorded the statement of the learned advocate appearing on behalf of respondent Nos.1 and 2 that the respondents have already got the electricity connection on the disputed well on their application from the Gujarat Electricity Board and this connection they got

independently of order impugned in this Special Civil Application. In view of the above, if the respondent Nos.1 and 2 have already got the electricity connection independently of order impugned in the present Special Civil Application, to decide the present Special Civil Application challenging the impugned order passed by the Sub-Divisional Magistrate, Modasa has become academic. As even if the impugned order is set aside that even otherwise it is the contention on behalf of the respondent Nos.1 and 2 that they have got the electricity connection independently of the impugned order.

3. Under the circumstances, the present Special Civil Application is disposed of without entering into and deciding the present Special Civil Application on merits. It is also made clear that this Court has not considered the case of the parties on merits and has also not gone into the legality and validity of the impugned order. It is also made clear that this Court has not expressed any opinion on the merits even with regard to civil litigation between the parties as it appears that the civil litigation is pending before the competent Civil Court and by disposal of the present

Special Civil Application, it may not be construed that this Court has opined anything against the petitioner on merits.

4. With this observations and direction, the present Special Civil Application is disposed of. Rule is discharged. However, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.